

BOARD OF OPTOMETRY

INITIAL STATEMENT OF REASONS

Hearing Date: April 15, 2013

Subject Matter of Proposed Regulations: Retired License Status Fees

Section(s) Affected: Amend section 1524 of Division 15 of Title 16 of the California Code of Regulations (CCR).

Introduction:

On September 17, 2012, Governor Jerry Brown signed Senate Bill 1215 (Emmerson, Chapter 359, Statutes of 2012), creating two retired licenses for the Board of Optometry (hereafter Board), which took effect January 1, 2013. Prior to this enactment, the Board did not have the authority to issue retired licenses. The first retired license is for optometrists who are at retirement age and ready to retire and stop working. The second retired license is for optometrists who are at retirement age, ready to retire, but want to provide their services in a volunteer capacity only. This statute also establishes fee ranges for these retired licenses, and the range for the renewal fee for the retired license with a volunteer designation.

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

This proposed regulation would make specific the application fee for the retired licenses, and the renewal fee for the retired license with volunteer designation statuses. Without an established fee, the Board cannot issue the retired licenses.

2. Anticipated benefits from this regulatory action:

Establishing fees for these new licenses will permit the Board to implement Senate Bill 1215, and issue the retired license, and retired license with a volunteer designation.

Previously, when licensed optometrists retired from practice, they could either be placed on inactive status or allow their license to expire. By requesting to be placed on inactive status, licensees had to pay a biennial fee of \$425 and were not permitted to practice in California. In addition, they were exempt from complying with continuing education requirements. If optometrists allowed their license to expire, then they paid no fee to the Board, and their license would go into delinquent status and be cancelled after three years.

There were two major complaints among licensees regarding the license status options available to them upon retirement. First, renewing under inactive status requires licensees to pay the renewal fee every two years when they have no intention of ever practicing again. Secondly, if licensees choose to not pay the fees and have their license expire, they are considered delinquent until the license is cancelled after three years. Delinquency implies that the licensee is non-compliant with Board requirements, such as past due fees or not fulfilling the continuing education requirements. It is unacceptable that licensees should be given a delinquent status and have their reputations tarnished when they simply are retired.

Licensed optometrists also requested that the Board create a retired license with volunteer designation. This would permit retired optometrists to provide optometric

services without compensation at health fairs, vision screenings, and public service eye programs. Many charitable organizations need volunteer optometrists on a temporary or permanent basis, and this license status would make it easier for these organizations to obtain these services. Moreover, simplifying the process of obtaining a retired license with volunteer designation will encourage retired optometrists to volunteer, increasing access to care for many underserved communities.

Factual Basis/Rationale:

Section 1524(o) – Adds a \$25 application fee for a retired license.

Factual Basis/Rationale:

BPC section 3152(q) establishes a fee range for the retired license status that shall not exceed \$25. The Board determined that \$25 is the adequate fee because it will cover the cost of developing the process to issue this license and staff time for subsequent requests. This is a one time fee, since this license does not need to be renewed. The Board also took into consideration the tasks, and length of time to complete each task, associated with issuing this license, and the salary of each staff member processing these requests (See Retired License Status Fees Analysis (02-12-13)).

The intent behind the creation of this license status is so that optometrists who are serious about retiring have the ability to do so permanently. This will give licensees a designation they can be proud of, save them money because they will no longer have to pay \$425 for an active or inactive license biennially, and eliminate the risk of going into a delinquent status.

Section 1524(p) – Adds a \$50 application fee for a retired license with a volunteer designation.

Factual Basis/Rationale:

BPC section 3152(r) establishes a fee range for the retired license status with a volunteer designation that shall not exceed \$50. The Board determined that \$50 is the adequate fee because it will cover the cost of developing the process to issue this license status and staff time for subsequent requests. The Board also took into consideration the tasks, and length of time to complete each task, associated with issuing this license status, the salary of each staff member processing these requests, and the cost to print a license (See Retired License Status Fees Analysis (02-12-13)). The fee for this license status is \$25 more than the regular retired license status because these optometrists are still permitted to practice. This means that the Board may receive a complaint against a retired volunteer that will require an investigation and maybe even discipline, both costs to the Board. BPC section 3090 authorizes the Board to take action against all persons guilty of violating the optometry practice act or any regulations adopted by the Board, including license holders of retired licenses with a volunteer designation.

Furthermore, retired optometrists volunteering with this license status will still need to have a physical license they can present as proof that they are licensed to practice. The cost to issue such a license is \$25, another cost to the Board. Similar to the retired license, this will give licensees a designation they can be proud of, save them money because they will no longer have to pay \$425 for an active or inactive license biennially, and eliminate the risk of going into a delinquent status. The low fee for this license status may also encourage optometrists at retirement age to volunteer their time more readily. These health professionals have a lifetime of experience that could serve thousands of low-income individuals and families who are uninsured or underinsured and may not receive basic vision care.

Section 1524(q) – Adds a \$50 application fee for the biennial renewal of a retired license with a volunteer designation.

Factual Basis/Rationale:

BPC section 3152(s) establishes a fee range for the biennial renewal of a retired license status with a volunteer designation. The Board determined that \$50 is the adequate fee because it will cover the cost of developing the process to re-issue this license status, staff time for subsequent renewals, and the cost to print a license (See Retired License Status Fees Analysis (02-12-13)). Renewal is necessary because optometrists with this license status will still be practicing, thus they need to prove their competence by completing continuing education. Compared to the biennial \$425 renewal fee for an active or inactive license paid by optometrists who considered themselves “retired,” this is a low fee that will allow optometrists to be retired by law and continue to provide their services in a volunteer capacity.

The fee for this license status is \$50, like the initial issuance of a retired volunteer license status, because these optometrists are still permitted to practice. This means that the Board may receive a complaint against retired volunteers that will require an investigation and maybe even discipline, both costs to the Board. BPC section 3090 authorizes the Board to take action against all persons guilty of violating the optometry practice act or any regulations adopted by the Board, including license holders of retired licenses with a volunteer designation. Furthermore, these licensees are subject to continuing education audits, another cost to the Board.

Underlying Data:

1. Senate Bill 1215 (Emmerson, Chapter 359, Statutes of 2012)
2. Retired License Status Fees Analysis (02-12-13)

Business Impact:

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following:

An optometrist retires because he or she chooses to retire. If the optometrist owns a business, it may either be sold, or closed. If the optometrist works for a business, they will leave that place of employment, and it is the employer’s responsibility to hire a replacement. While a high level of experience and knowledge is lost when an optometrist retires, it is necessary and opens up new opportunities to the incoming workforce and businesses. It is also important to note that prior to SB 1215 and the creation of the retired license status for this profession, optometrists have been considering themselves retired and taking the above steps. The only difference is that in the past, instead of having a retired designation, they were active, inactive or delinquent.

Also, the Board does not anticipate a large number of optometrists suddenly legally retiring because this option is available. An optometrist’s average retirement age is 70 years old. There are currently 781 optometrists at retirement age broken down as follows:

| | |
|--------------------------------|-----|
| Active | 313 |
| Inactive | 51 |
| Delinquent > 3 years | 286 |
| Delinquent < 3 years | 131 |

The Board estimates that 25% (about 195 optometrists) will choose to retire. The same estimate applies to optometrists that choose to retire with volunteer designation. For both of these license statuses, it is unknown when these licensees will choose to retire, if at all. For those licensees who are in delinquent status that are seeking to retire with either status, there will be additional

delinquency fees that must be paid prior to the issuance of the retired licenses. BPC section 3151 and 3151.1 require that licensees applying for these licenses hold a current and active optometrist license to apply. These fees are calculated on a case-by-case basis and may go up to \$3,000 once all delinquent and outstanding renewal fees have been calculated pursuant to BPC sections 3146 – 3147.7.

Optometrists that own a business will need to ensure that their patient records are either transferred appropriately to the optometrist purchasing the business, destroyed if warranted and in compliance with current law, or stored in a secure location and accessible to their previous patients as required by law.

The only possible alternative which would lessen any significant adverse impact on business (which includes small business) is for an optometrist not to retire.

Economic Impact Assessment:

This regulatory proposal will have the following effects:

- It will create and eliminate jobs within the State of California because: 1) optometrists will be retiring, which means they may be closing a business that would result in their employees losing their jobs. If the optometrist is employed, they will be leaving their place of employment, which will require their employer to fill the position; 2) Retired optometrists open up opportunities for the new workforce and businesses.
- It will create new business and eliminate existing businesses within the State of California because optometrists that retire may close their business, or sell their business. If the business is permanently closed, and the new workforce does not open another business, that results in a loss. If the business remains open and is transferred to another optometrist, or is successfully sold to another industry, some sort of new business will be initiated.
- It may affect the expansion of businesses currently doing business within the State of California due to the possibility of an increase in retired optometrists with volunteer designation. Businesses that are involved in health fairs, vision screenings, and public service eye programs could receive more assistance from these retired optometrists, which could expand their services.
- This regulatory proposal benefits the health and welfare of California residents, specifically, uninsured or under-insured Californians that are currently unable to receive optometric care due to lack of funding and resources. If there is an increase in retired optometrist that volunteer at health fairs, vision screenings, and public service eye programs, these types of services would increase, in turn increasing access to care.
- This regulatory proposal does not affect worker safety because the focus of this regulation is to establish appropriate fees so that optometrists can retire pursuant to BPC section 3151 and 3151.1.
- This regulatory proposal does not affect the state's environment because the focus of this regulation is to establish appropriate fees so that optometrists can retire pursuant to BPC section 3151 and 3151.1.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.